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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,210	12/12/2001	Thitiwan Buranachokpaisan	D48001	8878
7590 08/25/2004 CHURCH & DWIGHT CO., INC. 469 North Harrison Street Princeton, NJ 08543			EXAMINER MITCHELL, GREGORY W	
			ART UNIT	PAPER NUMBER
			1617	

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/021,210

Applicant(s)

BURANACHOKPAISAN, THITIWAN

Examiner

Gregory W Mitchell

Art Unit

1617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuing Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuing Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-23.

Claim(s) withdrawn from consideration: 24.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER

2. The amendments are not entered because the rejections over claims 21-23 are maintained (see below).

5. The rejection over claims 1-23 are maintained.

Applicant argues that "Murphy is directed to a liquid antiperspirant composition" and that as a result, "cannot be combined with Linn to demonstrate the obviousness of adding both non-liquid ester emollients and polymeric materials to a stick product." This argument is not persuasive. Examiner respectfully points out that the primary reference, Linn, does teach a stick product and that Murphy teaches that stick and liquid antiperspirants are interchangeable, conventional forms in the cosmetic antiperspirant art ("Background of the Inventions" section). Examiner also respectfully points out again that the test for obviousness is not whether the features of one reference may be bodily incorporated into the other to produce the claimed subject matter but simply what the combination of references makes obvious to one of ordinary skill in the pertinent art.

Applicant also argues that "Scholz, which is directed to an alcohol/water hand lotion/scrub cannot be combined with Linn to demonstrate the obviousness of adding a non-liquid ester such as is found in Scholz to Applicant's stick product." This argument are not persuasive. As pointed out by Examiner in the last office action, Scholz specifically teaches behenyl isostearate as imparting stability to cosmetic compositions. It is further pointed that it is specifically stated in Scholz that the objects of the invention are "antiperspirant stick compositions that exhibit substantially less visible residue (whitening) upon application to the skin or after drying ... include[ing] (a) non-volatile emollients ..." (Abstract). It is respectfully pointed out that, as a room temperature solid, behenyl isostearate is a non-volatile emollient.

Applicant further argues that "the physical structure of a stick product does not lend itself to simple substitution of the ingredients found in liquid and gel products." It is Examiner's position that, for the reasons described above, that the combination would have been obvious to one of ordinary skill in the art.

Finally, Applicant argues that the properties achieved by the instant claimed invention are a difficult to achieve combination of properties. This argument is not persuasive, however, because the resulting properties of a composition do not render a composition, that would have been obvious to one of ordinary skill in the art to formulate, non-obvious. Examiner respectfully points out that even if the properties of a composition are non-obvious, the composition is still obvious if the combination of prior references makes it obvious to one of ordinary skill in the pertinent art to formulate said composition.